



COMMONWEALTH of VIRGINIA
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December 8, 2003

The Honorable Robert G. Burnley, Director
Department of Environmental Quality
Commonwealth of Virginia
629 East Main Street
Richmond, Virginia 23219

Re: Emergency Regulation Amendments Concerning NOx Budget Trading
Program (9 VAC 5 Chapter 140, Revision F02)

Dear Mr. Burnley:

I have reviewed the above-referenced emergency regulation amendments as adopted by the State Air Pollution Control Board on December 8, 2003. I have also reviewed Paragraph D of Item 383 of Chapter 1042, 2003 Acts of Assembly.

It is my view that the State Air Pollution Control Board, contingent on approval by the Governor, possesses statutory authority to promulgate the above-referenced emergency regulation amendments.

This communication, concerning the legal authority of the Board, does not address any policy questions that may be embodied in the above-referenced emergency regulation amendments. Such policy questions are matters for the Board to consider and decide.

Sincerely,

Carl Josephson
Assistant Attorney General